IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8427 OF 2006

Shri Kiran Anant Karnik ..Petitioner.
Vs.
Mr.Sachin Sudhir Karkhanis & Ors. ..Respondents.

Mr.Sanjiv Sawant, adv. for the Petitioner.
Ms.Gouri Godse, adv. for the Respondent Nos.1 to 3.

CORAM : J.H.BHATIA, J.
DATE : AUGUST 10, 2007.

P.C.

1. Heard the learned counsel for the Parties.

2. The petitioner had filed Special Civil Suit No.171 of 2005 for recovery of an amount of Rs.5,42,000/- with future interest at the rate of 24% per annum. According to him, the respondents have received an amount of Rs.4,39,000/- from him for purchase of certain goods for running business and they have failed to make the payment. In the Written Statement filed by the respondents, it was admitted that the petitioner had provided certain furniture, invertors, batteries, etc. worth Rs.4,39,000/- to the respondent no.1 and as per the agreement, the amount was to be repaid in the instalments of Rs.1 lakh per year beginning from August, 06 and the last instalment of Rs.39,000/- would be paid in the August, 2010. The

respondent/defendent no.1 deposited cheque of Rs.1 lakh before the trial Court. The petitioner had filed an application before the trial Court seeking direction under Order 12 Rule 6 of the C.P.C. to give direction to the respondent/defendant to deposit complete amount of Rs.5,42,000/- in view of the admission in the Written Statement. Application came to be rejected by the Civil Judge, Senior Division and, therefore, the petitioner has come to this Court in Writ Petition.

3. The learned counsel for the petitioner contends that in view of provisions of Order 12 Rule 6 of the C.P.C., when there is a clear admission of the liability, the Court can pass judgment on admission and in support of this, he placed reliance upon **Uttamsingh Dugal and Co. Ltd. v. Union Bank of India and others AIR 2000 Supreme Court 2740.** The Supreme Court in that case observed that where there is clear admission of the liability, the judgment may be passed and there can be no dispute about this legal position. However, if written statement is carefully read, there is no such clear admission of liability of Rs.5,42,000/-. Admission is only about receipt of goods worth Rs.4,39,000/- and the respondent has pleaded in agreement that the amount is liable to be paid in the instalment of Rs.1 lakh per year beginning with August, 2006 and the last instalment is due in August, 2010.

In view of this, it is impossible to hold that petitioner is entitled to get payment of Rs.5,42,000/-. I find no substance in the writ petition.

4. Petition stands dismissed.

[J.H.BHATIA, J.]